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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,155	02/07/2002	Boaz Jaschek	68393-23	8588
50670 7590 06/13/2007 DAVIS WRIGHT TREMAINE LLP 865 FIGUEROA STREET SUITE 2400 LOS ANGELES, CA 90017-2566			EXAMINER ROBINSON, GRETA LEE	
			ART UNIT 2168	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/071,155	Applicant(s) JASCHEK ET AL.	
	Examiner Greta L. Robinson	Art Unit 2168	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 March 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-101 is/are pending in the application.
- 4a) Of the above claim(s) 1-51,99 and 100 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 52-98 and 101 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1-101 are pending in the present application. Claims 30, 51 and 75 have been cancelled. Claims 1-29, 31-50, 99 and 100 are withdrawn. Claims 52-69, 72-74, 76-81, 85-89, 91-98 and 101 have been amended. Claims 52-74, 76-98 and 101 have been examined on the merits.

#### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 52-98 and 101 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The language of independent claims 52, 77 and 101 are directed to an abstract idea and do not present a concrete tangible result. The language of the claims are directed to non-functional descriptive material which is non-statutory and simply recite an arrangement of data as opposed to a realized function. Claims 53-76 and 78-98 are rejected based on dependency.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent

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granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 52-55 are rejected under 35 U.S.C. 102(e) as being anticipated by Abe et al. US Patent 7,089,227 B2.

Regarding claim 52, **Abe et al.** teaches a relevancy determination unit [note: Figure 1 ] comprising:

a first interface adapted to receive information relating to a reception of keywords [note: RECEPTION UNIT (42) Figure 1];

a processor adapted to calculate a current reception patterns and a previous reception patterns in response to the reception of information relating to the reception of the keyword and attain a relevancy level to the keyword [note: Information Processing Device Figure 13; RETREIVING PROCESS (44) Figure 1; and col. 5 lines 40-52]; and

a storage unit, coupled to the first interface and processor, adapted to store the current reception patterns, the previous reception patterns and information relating to the reception of the keyword [note: buffer (43) Figure 1; and col. 5 lines 33-39 "buffer unit 43 stores the retrieval condition and the terminal device information received by the retrieval condition reception unit"],

wherein the relevancy determination unit is adapted to determine the relevancy of the keyword [note: column 13 lines 31-37 in the retrieving process, a record satisfying the retrieval request is detected in the text data to be searched according to the keyword variables table; column 6 lines 45-55 retrieval pattern as a value ].

6. Regarding claims 53-55, "wherein the processor is operable to determine the relevancy" [note: col. 15 lines 45-55]; "further adapted to receive a keyword extracted" [note: col. 12 lines 45-59]; "wherein the first interface is coupled to a search engine to receive a term extracted from a client query" [note: Figure 1; col. 16 line 43 through col. 17 line 18 ].

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claim 77 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abe et al. US Patent 7,089,227 B2 in view of Kinoshita et al. US Patent 5,715,446.

Although Abe et al. teaches the invention substantially, including “a search engine, adapted to receive and process an information stream and/or an information packet and provide an indication reflecting a match”. Note column 15 line 45 through column 16 line 16, and Figure 1. Abe et al. teaches a “relevancy determination unit coupled to a search engine, adapted to receive the indication” see Figure 1 column 13 lines 31-37 and column 6 lines 45-55. Abe et al. does not specifically teach real time processing. However, **Kinoshita et al.** teaches a search engine that provides real time processing, note real time processing unit (14) (i.e. real time search engine) Figure 3. Also see column 3 line 35 through line 61. It would have been obvious to one of ordinary skill at the time of the invention to have combined Kinoshita et al. with Abe et al. because real time processing would enable a specific operation or request to be processed immediately after the stream of data is input for processing and the end user would not be delayed in receiving results. Kinoshita et al. teaches real time search engines are known in the art, note prior art label Figure 3.

9. Claim 101 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abe et al. US Patent 7,089,227 B2 in view of Lee US Patent Application Publication No. 2002/0138475 A1.

Abe et al. teaches a system for receiving and processing terms including a relevancy determination unit [note Figure 1 RECEPTION UNIT (42); Information Processing Device Figure 13; RETREIVING PROCESS (44) Figure 1; and col. 5 lines 40-52]. Abe et al. does not specifically teach real time processing or an alert module

coupled to the relevancy determination unit. However, Lee teaches online processing (i.e. real time) in which additional modules may be added such as an alert module [see: page 1 paragraph 0005 right hand column; paragraph 0014 and 0019]. It would have been obvious to one of ordinary skill at the time of the invention to have combined Lee with Abe et al. because it would allow the received data in Abe et al. to alert specified users of a match in real time, enhancing the overall speed of the system. Also Lee teaches various modules maybe added to enhance the search process [abstract; paragraph 0019].

### ***Response to Arguments***

10. Applicant's arguments filed January 5, 2007 and March 21, 2007 have been fully considered but they are not persuasive.

In the response Applicant argued Abe et al. does not teach that the buffer unit is coupled to the processor as required by independent claims 52, 77 and 101. In response the examiner respectfully maintains the rejection as applied to independent claim 52. Note Abe et al. depicts all elements as connected or coupled, see abstract "a full text search retrieval device connected to a plurality of users, a received retrieval condition and terminal device information are stored in a trailing buffer." See Figure 1 buffer (43) connected to process (44) in the distributed network system (1). Also note, if elements are not coupled or connected the system would be inoperable. Applicant argues the independent claims have been amended to include language that the system operational with the following limitation "the relevancy

determination unit is adapted to determine the relevancy of the keyword". Applicant argues the cited amendment language overcomes the rejection cited under 35 USC 101 for omitted function and/or elements. However, the examiner maintains the rejection because the limitation "adapted" does not indicate a function has been executed by the system, it only states that it is capable of such process. The examiner suggest language that concretely states an operational function is implemented so as to overcome the rejection.

Applicant's arguments with respect to claims 77-98 and 101 have been considered but are moot in view of the new ground(s) of rejection. Applicant argued Abe et al. does not teach real time processing, note newly cited reference Kinoshita et al. and Lee provide for the concept of real time processing. Lee was also cited for teaching an alert module note new citation supra.

Applicant argues that withdrawn claims have been amended to include limitations similar to the elected claim and therefore should be rejoined. Note section 821.04 of the MPEP which states the following: "The propriety of a restriction requirement should be reconsidered when all the claims directed to the elected invention are in condition for allowance, and the nonelected invention(s) should be considered for rejoinder. Rejoinder involves withdrawal of a restriction requirement between an allowable elected invention and a nonelected invention and examination of the formerly nonelected invention on the merits. In order to be eligible for rejoinder, a claim to a nonelected invention must depend from or otherwise require all the limitations of an allowable claim. A withdrawn claim that does not require all the limitations of an allowable claim will not be rejoined." The examiner respectfully maintains the restriction requirement for at least the reasons as indicated above with respect to



MPEP 821.04. This application contains claims 1-29, 31-50, 99 and 100 drawn to an invention nonelected with traverse in the reply filed on June 28, 2006 and January 5, 2007. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

### ***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greta L. Robinson whose telephone number is (571)272-4118. The examiner can normally be reached on M-F 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim T. Vo can be reached on (571)272-3642. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



**GRETA ROBINSON**  
**PRIMARY EXAMINER**

Greta Robinson  
Primary Examiner  
June 07, 2007